

## LEGISLATIVE BUDGET BOARD

Austin, Texas

### FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 15, 2011

**TO:** Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB1029** by Carter (Relating to the conditions of release on bond for certain defendants charged with the offense of burglary. ), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure to require a defendant previously convicted of burglary two or more times to submit to electronic monitoring and pay the costs as a condition of bond. The bill would require a court that determines a defendant is indigent or unable to pay the cost of electronic monitoring to enter the findings on record. The bill would also require a defendant who violates a condition of bond and whose bail is revoked to be taken into custody and denied further release on personal bond pending trial. The defendant may be release on depositing current money with the court, or obtaining a surety bond.

According to the Texas Department of Criminal Justice (TDCJ), no significant fiscal impact is anticipated unless it is determined that it will have an impact on the offender population.

The bill would take effect September 1, 2011.

#### Local Government Impact

The Commission on Jail Standards (TCJS) anticipates that there will be no significant costs or savings to local government units because so few defendants would be required to participate. The exception for fiscal impact would be to counties that do not currently have an electronic monitoring program in place and would be required to incur start-up and staffing costs which would vary by county.

TCJS analysis for no significant costs or savings is that typically newly-charged repeat burglary offenders receive high bond amounts and would likely be required to post a cash or surety bond. As a consequence, most offenders could not afford the bond amounts and would remain incarcerated in a county jail until case disposition. Many serial offenders commit more than one burglary in a criminal episode and may have multiple charges filed against them. Those offenders that could afford to bond out would likely be able to afford electronic monitoring. The exception would be offenders who are granted personal recognizance bonds or a significant reduction in bond amounts. TCJS estimates the average cost to house a prisoner in jail is \$45.00 a day.

The Office of Court Administration (OCA) reported there were 44,913 burglary cases filed in fiscal year (FY) 2009 and 46,273 burglary cases were filed in FY 2010. However, it is unknown how many of those cases involved repeat offenders. OCA also reported that approximately 10,000 individuals were convicted of burglary each year for the past two fiscal years.

According to the Texas Association of Counties (TAC), there could be a significant cost to some counties. Smaller counties, given the limited number of defendants that would be impacted, could see some costs though possibly not significant. Urban counties, where the majority of these defendants would be located, could experience a significant fiscal impact given several factors, including the number of defendants who would be monitored; the need to use Global Positioning System (GPS) monitoring which is more expensive (based on the small number of responses many counties do not

currently use GPS monitoring which requires more staff and has higher costs per defendant); and the impact of jail costs for defendants who fail to bond out due to the increased fees thus remaining in jail.

**Source Agencies:**

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